

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT L. JACKSON,

Plaintiff,

No. CIV S-05-0764 LKK JFM PS

vs.

VA MEDICAL CENTER,
Palo Alto, California,

Defendants.

ORDER

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Plaintiff, proceeding pro se, has filed what appears to be a complaint for breach of contract, medical malpractice and personal injury, together with a request to proceed in forma pauperis. In the summons submitted by plaintiff, he names the VA Medical Center at 3801 Miranda Avenue, Palo Alto, California. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject

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1 of the action is situated, or (3) a judicial district in which any defendant may be found, if there is
2 no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

3 In this case, defendant V.A. Medical Center of Palo Alto does not reside in this
4 district. The claim arose in Santa Clara County, which is in the Northern District of California.
5 Therefore, plaintiff’s claim should have been filed in the United States District Court for the
6 Northern District of California. In the interest of justice, a federal court may transfer a complaint
7 filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire,
8 512 F.2d 918, 932 (D.C. Cir. 1974).

9 Accordingly, IT IS HEREBY ORDERED that:

10 1. This court has not ruled on plaintiff’s request to proceed in forma pauperis; and

11 2. This matter is transferred to the United States District Court for the Northern
12 District of California.

13 DATED: April 22, 2005.

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16 UNITED STATES MAGISTRATE JUDGE

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